



January 21, 2000

Mr. Juan E. Gonzalez
Attorney at Law
420 W. University Drive
Edinburg, Texas 78539

OR2000-0242

Dear Mr. Gonzalez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 131480.

The City of Mercedes (the "city"), which you represent, received a request for information related to acquisitions and sales of land. You claim that some of the requested information is excepted from disclosure under sections 552.105 and 552.131 of the Government Code. You have submitted the information you seek to withhold to this office for review. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.131 of the Government Code reads

(a) Information is excepted from the requirements of Section 552.021 if the information relates to economic development negotiations involving a governmental body and a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and the information relates to:

- (1) a trade secret of the business prospect; or
- (2) commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

(b) Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to the business prospect by the governmental body or by another person is excepted from the requirements of Section 552.021.

(c) After an agreement is made with the business prospect, this section does not except from the requirements of Section 552.021 information about a financial or other incentive being offered to the business prospect:

(1) by the governmental body; or

(2) by another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by a governmental body or a reduction in revenue received by a governmental body from any source.

You relate, "all of the proposed purchases of the lots listed above are businesses who are looking to locate or to expand to South Texas. If other cities or entities find out the name of the proposed purchasers, it is possible that they may attempt to lure those business to their cities by offering other incentives." You further relate that the subject documents are rough drafts of agreements. We conclude from your representations and our review of the submitted information that financial or other incentives, as contemplated by section 552.131(b) of the Government Code, have been offered to these businesses and that the agreements regarding those incentives have yet to be made. Therefore, we find that these documents are excepted in their entirety. You may withhold this information pursuant to section 552.131 of the Government Code.

You have also indicated that you seek to redact from responsive attorney billing statements the names of companies that have been contacted concerning the sale of real property in the Mercedes Industrial Park. Section 552.022 of the Government Code specifies several categories of information which may not be withheld from disclosure unless they are expressly confidential under other law. One such category is specified in section 552.022(a)(16) as "information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege." The names of persons contacted by an attorney is neither privileged under the attorney-client privilege, excepted from disclosure by section 552.131, nor made expressly confidential by other law. Therefore, responsive information of this nature must be released pursuant to section 552.022 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

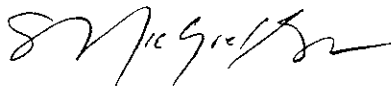
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/nc

Ref: ID# 131480

Encl. Submitted documents

cc: Mr. David Garza
2190 W. Highway 83
Mercedes, Texas 78570
(w/o enclosures)